



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2013-0171]

RIN 1625-AA08

Special Local Regulations; Pro Hydro-X Tour, Lake Dora; Tavares, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a special local regulation on the waters of Lake Dora in Tavares, Florida, during the Pro Hydro-X Tour, a series of high-speed personal watercraft races. The event is scheduled for Saturday and Sunday, June 1-2 and June 8-9, 2013. This special local regulation is necessary to ensure the safety of life on navigable waters of the United States during the races. The special local regulation establishes two areas during each weekend of its enforcement: A race area, where all persons and vessels, except those participating in the races, are prohibited from entering; and A buffer zone around the race area, where all persons and vessels, except those enforcing the buffer zone or authorized participants and vessels transiting to the race area, are prohibited from

entering, unless authorized by the Captain of the Port Jacksonville or a designated representative.

DATES: This rule will be enforced with actual notice from 9 a.m. on June 1, 2013, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This rule is effective in the Code of Federal Regulations from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 5:30 p.m. on June 9, 2013. This rule will be enforced from 9 a.m. until 5:30 p.m. daily on June 1-2 and on June 8-9, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-0171]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Commander Robert Butts, Sector Jacksonville Office of Waterways Management, U.S. Coast Guard; telephone (904) 564-7563, e-mail Robert.S.Butts@uscg.mil. If you have questions on viewing or submitting material to the docket,

call Barbara Hairston, Program Manager, Docket Operations,  
telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

#### A. Regulatory History and Information

On April 17, 2013, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations; Pro Hydro-X Tour, Lake Dora; Tavares, FL in the Federal Register (78 FR 22808). The Coast Guard received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. The Coast Guard did not receive the necessary information with regard to this event in time to provide both an NPRM and a delayed effective date. As such, any delay in the effective date for the rule would be impracticable and contrary to the public interest because the first race will begin on June 1, 2013. As a result, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

## B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Pro Hydro-X Tour.

## C. Discussion of Comments, Changes and the Final Rule

The Coast Guard did not receive any comments to the proposed rule, and no changes were made to the regulatory text.

On Saturday and Sunday, June 1-2 and June 8-9, 2013, H2X Racing Promotions will host the Pro Hydro-X Tour, a series of high-speed personal watercraft races. The Pro Hydro-X Tour will be held on Lake Dora in Tavares, Florida. Approximately 75 vessels are anticipated to participate in the races. No spectator vessels are expected to attend the Pro Hydro-X Tour. The rule will establish a special local regulation that encompasses certain waters of Lake Dora in Tavares, Florida. The special local regulation will be enforced from 9 a.m. until 5:30 p.m. on June 1-2 and June 8-9, 2013. This special local regulation is necessary to ensure the safety of life on navigable waters of the United States during the races. The special local regulation will consist of the following two areas during each weekend that it is enforced: (1) a race area, where all persons and vessels, except those persons and vessels participating in the high-speed personal watercraft races, are prohibited from

entering, transiting, anchoring, or remaining; and (2) a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants transiting to and from the race area, are prohibited from entering, transiting, anchoring, or remaining unless authorized by the Captain of the Port Jacksonville or a designated representative.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area or buffer zone by contacting the Captain of the Port Jacksonville by telephone at (904) 564-7513, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the race area or buffer zone is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated representative. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

## 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) the special local regulation will be enforced for only 34 hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the race area or buffer zone without being an authorized participant or enforcing the buffer zone, or receiving authorization from the Captain of the Port Jacksonville or a designated representative, they may operate in the surrounding area during the enforcement periods; (3) nonparticipant persons and vessels may still enter, transit through, anchor in, or remain within the race area or buffer zone if authorized by the Captain of the Port Jacksonville or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Lake Dora encompassed within the special local regulation from 9 a.m. until 5:30 p.m. on June 1-2, 2013 and June 8-9, 2013. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

## 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule

would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this



rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) and 35(b) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

## List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and

recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS.

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35T07-0171 to read as follows:

§ 100.35T07-0171 Special Local Regulations; Pro Hydro-X Tour, Lake Dora, Tavares, FL.

(a) Regulated Areas. The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) Race Area. All waters of Lake Dora encompassed within an imaginary line connecting the following points: starting at Point 1 in position 28°47'57"N, 81°43'39"W; thence south to Point 2 in position 28°47'55"N, 81°43'39"W; thence east to Point 3 in position 28°47'55"N, 81°43'22"W; thence north to Point 4 in position 28°47'58"N, 81°43'22"W; thence west back to origin. All persons and vessels, except those persons and vessels participating in the high-speed personal watercraft races, are prohibited from entering, transiting through, anchoring in, or remaining within the race area.

(2) Buffer Zone. All waters of Lake Dora, excluding the

race area, encompassed within an imaginary line connecting the following points: starting at Point 1 in position 28°47'59"N, 81°43'41"W; thence south to Point 2 in position 28°47'53"N, 81°43'41"W; thence east to Point 3 in position 28°47'53"N, 81°43'19"W; thence north to Point 4 in position 28°47'59"N, 81°43'19"W; thence west back to origin. All persons and vessels except those persons and vessels enforcing the buffer zone, or authorized participants transiting to or from the race area, are prohibited from entering, transiting through, anchoring in, or remaining within the buffer zone.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated areas.

(c) Regulations. (1) All persons and vessels are prohibited from:

(i) Entering, transiting through, anchoring in, or remaining within the race area unless participating in the race.

(ii) Entering, transiting through, anchoring in, or remaining within the buffer zone, unless enforcing the buffer zone or an authorized race participant transiting to or from the

race area.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas may contact the Captain of the Port Jacksonville by telephone at (904) 564-7513, or a designated representative via VHF radio on channel 16, to request authorization. If authorization is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the

Captain of the Port Jacksonville or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas to the public by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement Period. This rule will be enforced from 9 a.m. until 5:30 p.m. on June 1-2, 2013, and June 8-9, 2013.

Dated: May 22, 2013

T. G. ALLAN, JR.

Captain, U.S. Coast Guard

Captain of the Port Jacksonville.

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